REMARKS

Applicants respectfully request further examination and reconsideration in view of the above amendments and arguments set forth fully below. Claims 6, 9-11, 13, 16, and 17 were previously pending in the present application. Within the Office Action, Claims 6, 9-11, 13, 16, and 17 have been rejected.

Claim Rejections under 35 U.S.C. § 112, Second Paragraph

Within the Office Action, Claims 11 and 17 were rejected under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as their invention. The Applicants amend Claims 11 and 17 to claim dependency to Claims 6 and 13, respectively, thereby rendering the rejection moot.

Claim Rejections under 35 U.S.C. § 103 – Saito, Peterson, Downs

Also within the Office Action, Claims 6, 10, and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 6,744,894 to Saito (hereinafter referred to as "Saito") in view of United States Patent No. 5,825,876 to Peterson, Jr. (hereinafter referred to as "Peterson"), and further in view of United States No. 6,226,618 of Downs et al. (hereinafter referred to as "Downs").

To establish a *prima facie* case of obviousness of a claimed invention, all the claimed features must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). The Applicants respectfully traverse this rejection, because neither Saito, Peterson, nor Downs, either alone or in combination, disclose all of the limitations of Claims 6, 10, and 13.

Specifically neither Saito, Peterson, nor Downs teach or suggest "a method for playing back an encrypted user data stream ... comprising ...processing the information of the header which is not needed to play back the unencrypted start section ... wherein the step of processing the information of the header which is not needed to play back the unencrypted start section is performed concurrently with the playing back of the unencrypted start section."

To this end, it is important to have a clear understanding of the teaching of Peterson. Importantly, the Applicants would like to draw the Examiner's attention to column 7, line 66 to column 8, line 5. Any non-encrypted video data received from the reader, which can correspond to the "unencrypted start section of the user data block" of claim 1, is finally processed to generate appropriate analog video signals at its output, as outlined in column 8, line 3 so that the consumer can access and view the trailer and instructions but not the actual movie. The Applicants would like to emphasize that column 8, line 1 states that this takes place "without any processing of that data". Therefore, what is done in Peterson is that the unencrypted start section is taken and replayed. Any teaching on any

additional processing of a header, and specifically of any information of the header which is not needed to play back the unencrypted start section is definitely not disclosed by Peterson, and importantly this would not even make any sense.

As outlined in column 8, lines 5-8, any further processing only takes place when the consumer indicates this desire to the controller by depressing an appropriate key on the keypad which generates a corresponding signal that is received by the processor. Then the processor, in response to this signal, performs some processing steps, which in the end result in the payment of a certain fee and a receipt of decryption key (column 8, line 37). Then, when the other conditions such as usage limits relating to date and time (column 8, line 42 or 54) are fulfilled, the decryption process is initiated as outlined in column 9, line 20.

Therefore, Peterson has a clear teaching that in a first step, the unencrypted start section is replayed and nothing else is done, and in a second step, which is only initiated when the user desires to watch the whole movie, authorizations and key transmission messages are preformed to finally decrypt the encrypted part of the movie.

Therefore, a combination of Saito and Peterson would result in this procedure described in the preceding section above.

Now, Downs teaches to receive encrypted content from a server, which is then, in the client, decrypted and re-encrypted as outlined in column 82, line 40 of Downs. Now, a real-time concurrent decryption-decode-playback of the content without the need to first decrypt the entire file for the content prior to decode and playback (column 82, lines 52-55) is performed. Therefore, when those skilled in the art would combine Saito, Peterson and Downs, then the procedure relating to the unencrypted start section would be performed in the same way as outlined in column 8, lines 1-5 of Peterson. However, regarding the encrypted part, the processing as taught by Downs in column 82, lines 40-55 can be applied. Again and importantly, the teaching of Downs only relates to the encrypted portion, and consequently, the combination of all of the references says that the decryption process mentioned in column 9, line 20 of Peterson is performed as outlined by Downs in column 82, lines 50-55. Therefore, this combination clearly states that the step of processing the information of the header, which is not needed to play back the unencrypted start section is performed **subsequently to the playing back of the unencrypted start section,** *i.e.* only when, after the playing back of the unencrypted start section, the consumer indicates a desire to view the whole movie as outlined in column 8, lines 5-7 of Peterson .

Next, the Applicants traverse the Examiner's statements on page 5, lines 17-19 of the Office Action. The Examiner states that Downs "teaches that concurrently decrypting the data while playing back unencrypted data...". However, this interpretation is incorrect. Downs teaches to concurrently decrypt data while

playing back data that was decrypted before, *i.e.* which was, when arriving at the replay device, encrypted data rather than unencrypted data. Therefore, Downs teaches to concurrently decrypt data while earlier decrypted data is decoded/replayed, but it is incorrect that Downs teaches to concurrently decrypt data while playing back unencrypted data, since the "unencrypted data" in claim 1 is the data which was unencrypted in the user data stream as defined in the first paragraph of claim 1, while the teaching of Downs is only related to the processing of the encrypted data and not at all related to the processing of any unencrypted data.

Furthermore, the last paragraph in claim 6 does not state that a decryption is performed concurrently with the playing back of the unencrypted start section but the passage explicitly states that the information of the header, which is not needed to play back the unencrypted start section is performed concurrently with playing back. Therefore, in order to "increase the efficiency of the decryption system" as outlined by the Examiner on page 6, second line of the Office Action, those skilled in the art would modify only the decryption process of the encrypted portion of Peterson, but would not change anything with respect to column 8, lines 1-12 of Peterson. Those skilled in the art would not have any motivation to do so, since when the unencrypted start section is replayed, it would not make any sense to process any additional data, since nobody knows whether the consumer is indeed interested in the whole movie and additionally nobody knows

whether the specific start date and time at which access to the secured content may be enabled is now or later.

Therefore, any processing of header data relating to the encrypted data in parallel to the playback of the unencrypted portion in Peterson would not make any sense, since it can easily be the case that after ordering the full movie, the time limit is such that the user is only allowed to view the movie one day later or so. Therefore, the delay as set by the ordering procedure in Peterson is so significant that any motivation to increase the efficiency before one knows that the user is indeed interested in the whole movie is not at all an issue.
Naturally, the motivation can be an issue as soon as the user has ordered the whole movie and then the decryption process in Peterson takes place. However, this is not what is claimed in the last step of claim 6, *i.e.* that the information of the header which is not needed to play back the unencrypted start section is performed concurrently with the playing back of the unencrypted start section.

Furthermore, what the Examiner states on page 6, line 4-6 is additionally not what is claimed in claim 1. Here, the Examiner erroneously states that "while the initial sample data is being played back, the first portion of encrypted data would be decrypted, as taught by Downs,...". However, claim 6 states that the information of the header which is not needed to play back the unencrypted start section is performed concurrently with the playing back of the unencrypted start section. I am convinced that the limitation "processing the information of the

header which is not needed to play back the unencrypted start section" is different from the "the first portion of encrypted data would be decrypted" as stated by the Examiner.

Furthermore, the Applicants would like to comment on the statements made by the Examiner on page 2, lines 16-18. The "no delay" feature cited by the Examiner is not an issue in view of the complicated and specifically time/date driven approach in Peterson. Therefore, the "no delay" feature is not a motivation derived from any of the three cited references. Then on page 2, lines 19-20, the Examiner makes a pure assertion without any evidence from any reference that "the remaining encrypted data can be decrypted for playback as well". Apart from the fact that this is not the limitation in the last paragraph of claim 1 as discussed before, in the context of Peterson one would not have any interest in doing so, and would only further process anything with respect to the encrypted data when the consumer has indicated his desire to the controller by depressing an appropriate key as outlined in column 8, lines 5-8.

Then, regarding page 2, lines 20-22, the Examiner also states that "the ordinary person skilled in the art would realize" anything, but without giving any evidence from any reference. As stated before, in view of the specific teaching of Peterson, it would not make any sense to process any portion of header data needed to recognize the encrypted data during the viewing of the trailer and

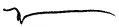
instructions but the actual movie as outlined in column 8, lines 4 and 5 of Peterson.

For at least these reasons, Claims 6, 10, and 13 are not rendered obvious in view of a hypothetical combination of Saito, Peterson, and Downs.

CONCLUSION

Applicant respectfully posits that the pending claims have been distinguished from the art of record, and that all objections to and rejections of the claims have been overcome. Accordingly, Applicant respectfully requests allowance. Should the Examiner deem it helpful he is encouraged to contact Applicant's attorney, at (650) 474-8400.

Respectfully submitted,



Michael A. Glenn
Reg. No. 30,176

Customer No. 22862